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DAN SMOOT

A HOSTILE CONGRESS

When national enthusiasm for the American Independent Party failed to "peak" — despite the vainly hopeful prognoses of Democrat and Republican leaders — it became obvious that the political tactic of attacking George Wallace the man was not effective. Democrats and Republicans added a new tactic: trying to frighten the public about the dire consequences of Wallace winning and then being stalemated by a hostile Congress of Republicans and Democrats. This, they claim, would be catastrophic: the functions of government would grind to a halt; and disaster would ensue.

This nonsense is based on the erroneous assumption that all members of Congress would reject all proposals which Governor Wallace has advanced in his campaign: a pledge to support law and order (a pledge appearing in both the Democrat and Republican Platforms of 1968); curtailment of the federal bureaucracy; a realistic approach to foreign aid; long overdue action to protect the country against illegal and dangerous edicts of the Supreme Court.

Wallace says that many members of Congress would back such proposals, if the members were free from the threat of party discipline imposed by a too-powerful executive in control of party leaders in Congress.

But assume that Wallace is wrong. Assume that if elected, he would be faced with an unalterably hostile Congress. Would disaster result? Would *proper* functions of government cease?

On the contrary: a Congress hostile to the President could be a consummation devoutly to be wished. It could restore the important division and balance of power between the legislative, executive, and judicial branches of government established and *ordained* in the Constitution. A *hostile* Congress is a *jealous* Congress, which refuses to surrender its constitutional authority to satisfy the demands of an ambitious, power-hungry President. Hence, it could serve the nation best *because* of its hostility.

Remember the 80th Congress — one of the best in recent history? President Truman bitterly de-

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nounced it as a "no-good, do-nothing Congress" because it was hostile to him. It was a Republican Congress which refused to enact many of Truman's unwise, unconstitutional proposals, and overrode some of his unwise vetoes (*i.e.*, his vetoes of the Taft-Hartley Act, and the McCarran-Walters Immigration Act).

If Truman had been a Republican, the 80th Congress would have been less hostile and more cooperative. It is a political truism that when the President and the Congress are controlled by the same political party, rifts between the two are soft-pedaled and, whenever possible, kept from public view. And, for the sake of party unity, members of Congress often support the demands of their party leader in the White House to the detriment of the national interest.

Surely we have had enough of unhostile Congresses which, because of party pressures, give the President whatever he demands, even when his demands represent arrogant intrusions into the legislative domain. Recall the first legislative battle of the Kennedy administration.

In January, 1961, House Speaker Sam Rayburn proposed an increase in the membership of the House Rules Committee. The House approved. This "packing" of the Rules Committee was an administration maneuver to eliminate free and full discussion of legislation so that Kennedy's new-frontier programs could be rammed through Congress without real debate. The House vote, of 217 to 212, prompted the following realistic evaluation in *The New York Times*:

"The tabulation strongly indicates that, if threats and promises had not been lavishly employed by the Administration, the House would have voted down even its beloved Speaker to maintain the tradition of a Rules Committee independent of Administration Control . . . ."

The threats and promises, which the Kennedy administration ruthlessly used, were widely publicized; but the President had his way, because the House submitted to party discipline enforced by executive blackmail.

Eventually, Congress did become hostile to President Kennedy, and bottled up in committees most of his new-frontier legislation; and that was a great blessing for the country. President Johnson, on the other hand (with a Congress so friendly that he often called it "my Congress"), got more harmful, socialistic, unconstitutional legislation than any previous President.

Presidents Kennedy and Johnson both used Executive Orders to initiate programs not approved by Congress. A *hostile* Congress would have protected the country against this executive tyranny, by passing a joint resolution asserting that no tax money would be appropriated to implement the Executive Orders.

A hostile Congress would not have tolerated a sinister situation that was almost ignored in 1964, following the assassination of President Kennedy by communist Lee Harvey Oswald.

President Johnson created a bipartisan Commission to investigate the assassination, and appointed Republican Chief Justice Earl Warren as chairman, even though Warren had already denounced the assassination as the work of "bigots." Warren has never been known to call a communist a "bigot." The Warren Commission selected a staff of 15 lawyers (who did the actual work of the Commission) — among them, Norman Redlich, a professor at New York University School of Law.

On May 5, 1964, about four months after the Warren Commission's work began, Representative Ralph F. Beerman (Nebraska Republican) spoke to the House about the Commission's investigation. Representative Beerman said, in part:

". . . . it is amazing — shocking — incredible, to find that although competent and unimpeachable legal and investigative counsel can be found in any community . . . the Warren Commission has on its staff as a $100-a-day consultant a member of the Emergency Civil Liberties Committee — an organization cited by both the House Committee on Un-American Activities and the Senate Internal Security Subcommittee.

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"Prof. Norman Redlich, on the national council of the Emergency Civil Liberties Committee — cited . . . as an organization 'to defend the cases of Communist lawbreakers' — is currently employed at $100 a day, for the Warren Commission . . . .

"Further, the cited Emergency Civil Liberties Committee . . . has unexplained connections and associations with the very Fair Play for Cuba Committee to which the accused assassin Lee Oswald belonged . . . .

"What is Redlich's purpose in serving . . . on the [Warren] Commission? Lee Oswald was a 'communist lawbreaker' — perhaps the most notorious 'communist lawbreaker' of the century. Since the Emergency Civil Liberties Committee's alleged purpose is 'to defend the cases of Communist lawbreakers,' is Redlich carrying out any part of this mission as a member of the staff of the Warren Commission? . . .

"I call upon those in responsible positions to dismiss this patently unqualified 'consultant' . . . and investigate and make public facts concerning how Redlich managed to get hired and keep his job despite his known Communist-front affiliations . . . . His retention with the Commission . . . serves the purposes of the world Communist propaganda apparatus."(1)

Representative Edward Gurney (Florida Republican) also told the House about the "incredible violation of U.S. security" that Norman Redlich's Warren Commission service represented. Asking for a congressional probe, Gurney said:

"Congressional files disclose that Redlich has been outspoken in his demands that the House Committee on Un-American Activities be disbanded . . . . [He] has called the House Committee 'iniquitous' and demanded in the 'name of decency and survival' that HCUA call off an investigation of certain Communist-backed peace groups . . . ."(2)

After Representatives Beerman and Gurney warned the House of Representatives about Redlich, Senator Karl Mundt (South Dakota Republican) gave the Senate the same information. Speaking on the Senate floor on May 11, 1964, Mundt referred to the Emergency Civil Liberties Committee as "one of the most notorious Communist fronts of this country." Regarding Redlich's appointment to the Warren Commission's legal staff, Senator Mundt said:

"I submit that the American public is entitled to know why this type of individual, connected with un-American associations, has crept into the Warren Commission.

"How can Americans possibly accept as valid, objective, and unbiased, a report prepared under such conditions? . . ."(3)

Referring to Chief Justice Warren's statement that "matters were coming before the Commission so sensitive in nature that they might not be made public for a generation," Senator Mundt observed:

"I cannot conceive what such testimony might be but it can be assumed with certainty that Communist leaders around the world will have a detailed report . . . long before it reaches the American public since once a Government body is infiltrated by one with Communist sympathies or connections, history has shown that the pipe-line to Moscow is fast and it is filled with classified material."(3)

It is doubtful that a matter of greater importance could have been brought to the attention of the Congress in 1964. But no action was taken, and the national press paid little attention.

To a few reporters who did inquire, the Warren Commission's Chief Counsel, Lee Rankin, explained that when applying for the Commission job, Redlich listed his membership in the ECLC on his application. Rankin said every staff member was subject to a full investigation and that the results were examined by members of the Warren Commission, headed by Warren.(4)

Obviously, Warren was aware of Norman Redlich's long-standing membership in the ECLC. Warren was present the day an FBI Agent presented to the Commission an FBI report in which

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Lee Harvey Oswald, the Fair Play for Cuba Committee, and the Emergency Civil Liberties Committee were discussed.[5] In part, the FBI report quoted the following information from the Internal Security Subcommittee of the Senate Judiciary Committee:

"To defend the cases of Communist lawbreakers, fronts have been devised making special appeals in behalf of civil liberties and reaching out far beyond the confines of the Communist Party itself. Among these organizations [is] . . . the . . . Emergency Civil Liberties Committee. When the Communist Party itself is under fire, these fronts offer a bulwark of protection."[6]

The record shows that Justice Warren, and other members of the Commission present, ignored the portion of the FBI report which covered the functions of the ECLC.

A "bulwark of protection" was obviously given Norman Redlich. He remained on the Commission staff until its work was concluded in late September, 1964; and he is credited with writing, editing, and rewriting at least four chapters of the Warren Report.

At a time of great national crisis, the Congress of the United States betrayed its responsibility to the American people. Possibly, members of Congress did not have the courage — or did not think it seemly — to question a Commission which had been given the trust of the President of the United States.

If the Congress had been hostile to the President, it would not have ignored the deplorable and still unexplained employment of Norman Redlich.

If George Wallace were elected, even liberals in Congress would become keenly aware of the Constitution and of their obligations under it, because liberals would be most hostile to the thought of Wallace exercising the limitless, unconstitutional powers that Congress has permitted liberal Presidents to exercise. Nothing terrifies liberals more than the thought of a conservative President (and to them Wallace is an arch conservative) having as much power as liberals want a liberal President to have.

If Wallace were in the White House, every proposal and official act of the President would be carefully weighed and fully scrutinized by a vigilant Congress; and that is what we need. Our country desperately needs a Congress that will exercise its constitutional powers, and not abdicate (or delegate) them to the President. Our country needs a Congress that will slow down the legislative mill. Our country needs an administration that does not, or cannot, pressure Congress into approving a steady stream of multi-billion-dollar, unconstitutional programs.

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FOOTNOTES

(1) *Congressional Record*, Vol. 110, No. 89, May 5, 1964, pp. 9715 ff.

(2) Fulton Lewis, Jr., *Washington Report*, May 8, 1964

(3) *Congressional Record*, Vol. 110, No. 93, May 11, 1964, pp. 10163 ff.

(4) *Rocky Mountain News* article by Gene Wortsman, "JFK PROBE AID IN DOUBTFUL GROUP," April 30, 1964; Washington (D.C.) *Daily News*, "Used by Warren Group: Consultant admits ECLC Membership"

(5) *Hearings Before The President's Commission On The Assassination Of President Kennedy*, Vol. IV, pp. 431 ff.

(6) *Hearings* . . . Vol. XVII, pp. 766 ff.

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